IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 18709 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ADHUNIK PRATHISTHAN
Versus
STATE OF GUJARAT AND ANOTHER

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Appearance :
MR VC VAGHELA for the Petitioner
MR SATYAM CHHAYA, ASSISTANT GOVERNMENT PLEADER for the Respondents

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 27/07/2007

ORAL JUDGMENT

1. **RULE**. Mr.Satyam Chhaya, learned Assistant Government Pleader waives service of Rule on behalf of the respondents.

2. Present is the petition, wherein the petitioner has challenged the order passed by the Additional Secretary (Appeal), Revenue Department dated 30.11.2006 / 09.11.2006, whereby the revision application filed by the petitioner against the order of the Collector dated 14.07.2004 is rejected.

3. The facts of the case are that the petitioner asked for allotment of land admeasuring 8.094 sq. mtrs. from survey No.2/13/A paiki of village Dharampur, Tal.: Ranavav for starting veterinary hospital. The said request was rejected by the Collector by order dated 14.07.2004 only on the ground that the land demanded at a time is more than 100 acres and the same is under ban of, “Narmda Jalsampati Pani Purvatha and Kalpasar Vibhag”.

4. Learned advocate for the petitioner invited attention of the Court to the changed policy of the Government, reflected in Government resolution No.JMN/392004/3264/A dated 25.01.2005. A copy of which is at Annexure – 'E' to the petition.

Learned advocate for the petitioner submitted that it is true that the said changed policy was not in existence when the Collector passed order dated 14.07.2004, but in any case, that changed policy had come into existence when the revision application was rejected by the Government (Additional Secretary (Appeal), Revenue Department) on 30.11.2006 / 09.11.2006.

5. Learned advocate for the petitioner submitted that the

Additional Secretary ought to have taken into consideration the changed policy of the Government and should have quashed the order of the Collector or at the most, should have remanded the matter to the Collector to decide the same afresh, taking into consideration the changed policy of the Government reflected in Government resolution dated 25.01.2005.

6. Mr.Satyam Chhaya, learned Assistant Government Pleader for the respondents submitted that the Collector had rightly rejected the request of the petitioner, but then, could not substantiate and support the order of the Additional Secretary (Appeal), Revenue Department dated 30.11.2006 / 09.11.2006 in revision application in light of the changed policy of the Government by resolution dated 25.01.2005.

7. Taking into consideration the changed policy of the Government, the ground on which the application/demand of the petitioner was rejected does not survive today and the Additional Secretary ought to have taken into consideration the changed policy of the Government.

8. In the result, the petition succeeds. Order dated 30.11.2006 / 09.11.2006 passed by the Additional Secretary (Appeal), Revenue Department is quashed and set aside. Order dated 14.07.2004 of the Collector is also quashed, so that matter is considered afresh by the Collector in light of the changed policy of the Government.

The petitioner is directed to approach the Collector, Porbandar afresh within a period of 3 weeks from today. The Collector is directed to decide the application of the petitioner in light of the changed policy of the Government within 6 weeks from the date of receipt of the application.

9. Rule is made absolute. No costs.

(RAVI R.TRIPATHI, J.)

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